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09400HB4885ham008

LRB094 18448 RLC 56913 a

1 AMENDMENT TO HOUSE BILL 4885

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 4885 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Cannabis Control Act is amended by changing  
5 Section 10 as follows:

6 (720 ILCS 550/10) (from Ch. 56 1/2, par. 710)

7 Sec. 10. (a) Whenever any person who has not previously  
8 been convicted of, or placed on probation or court supervision  
9 for any offense under this Act or any law of the United States  
10 or of any State relating to cannabis or controlled substances,  
11 is charged with violating Sections 4(a), 4(b), 4(c), 5(a),  
12 5(b), 5(c), or 8 of this Act, the court may elect to divert  
13 such person to a county drug school program or other local  
14 diversion program, if it is available. Whenever a person has  
15 just once previously been convicted of, or placed on probation  
16 or court supervision for a violation of Sections 4(a), 4(b),  
17 4(c), 5(a), 5(b), 5(c), or 8 of this Act, the State's Attorney  
18 of the county in which the offense was committed may elect to  
19 divert such person to a county drug school program or other  
20 local diversion program, if it is available.

21 (b) Upon fulfillment of the terms and conditions of the  
22 drug school or drug diversion program, the State's Attorney may  
23 elect to dismiss the proceedings against such person.

24 (c) Upon a violation of any of the terms or conditions, or

1 other unsuccessful completion of the drug school or drug  
2 diversion program, or if such a program is not available, the  
3 State's Attorney may proceed with prosecution as otherwise  
4 provided by law.

5 (d) ~~(a)~~ Whenever any person who has not previously been  
6 convicted of, or placed on probation or court supervision for,  
7 any offense under this Act or any law of the United States or  
8 of any State relating to cannabis, or controlled substances as  
9 defined in the Illinois Controlled Substances Act, pleads  
10 guilty to or is found guilty of violating Sections 4(a), 4(b),  
11 4(c), 5(a), 5(b), 5(c) or 8 of this Act, the court may, without  
12 entering a judgment and with the consent of such person,  
13 sentence him or her to probation.

14 (e) Probation under this Section shall not be imposed for a  
15 third or subsequent plea or finding of guilt for violating  
16 Sections 4(a), 4(b), 4(c), 5(a), 5(b), 5(c), or 8 of this Act.  
17 This subsection (e) does not preclude a sentence of probation  
18 or other sentence available under law.

19 (f) ~~(b)~~ When a person is placed on probation, the court  
20 shall enter an order specifying a period of probation of 24  
21 months, and shall defer further proceedings in the case until  
22 the conclusion of the period or until the filing of a petition  
23 alleging violation of a term or condition of probation.

24 (g) ~~(c)~~ The conditions of probation shall be that the  
25 person: (1) not violate any criminal statute of any  
26 jurisdiction; (2) submit to a drug assessment performed by a  
27 program designated by the State to perform such services for  
28 the Illinois courts, as defined in Section 1-10 of the  
29 Alcoholism and Other Drug Abuse and Dependency Act, and if  
30 needed, drug education treatment through county drug school, or  
31 drug treatment through a program center licensed by the  
32 Department of Human Services, or equivalent as available; (3)  
33 participate in a mental health screening at an approved  
34 service; ~~(2) refrain from possession of a firearm or other~~

1 ~~dangerous weapon;~~ (4) ~~(3)~~ submit to periodic drug testing at a  
2 time and in a manner as ordered by the court, but no less than 3  
3 times during the period of the probation, with the cost of the  
4 testing to be paid by the probationer; (5) refrain from  
5 possession of a firearm or other dangerous weapon; and (6) ~~(4)~~  
6 perform no less than 30 hours of community service, provided  
7 community service is available in the jurisdiction and is  
8 funded and approved by the county board.

9 (h) A sentence of probation under this Section is  
10 immediately expungeable upon the successful completion of the  
11 probation.

12 (i) ~~(d)~~ The court may, in addition to other conditions,  
13 require that the person:

14 (1) make a report to and appear in person before or  
15 participate with the court or such courts, person, or  
16 social service agency as directed by the court in the order  
17 of probation;

18 (2) pay a fine and costs;

19 (3) work or pursue a course of study or vocational  
20 training;

21 (4) undergo medical or psychiatric treatment; or  
22 treatment for drug addiction or alcoholism;

23 (5) attend or reside in a facility established for the  
24 instruction or residence of defendants on probation;

25 (6) support his dependents;

26 (7) refrain from possessing a firearm or other  
27 dangerous weapon;

28 (7-5) refrain from having in his or her body the  
29 presence of any illicit drug prohibited by the Cannabis  
30 Control Act, the Illinois Controlled Substances Act, or the  
31 Methamphetamine Control and Community Protection Act,  
32 unless prescribed by a physician, and submit samples of his  
33 or her blood or urine or both for tests to determine the  
34 presence of any illicit drug;

1 (8) and in addition, if a minor:

2 (i) reside with his parents or in a foster home;

3 (ii) attend school;

4 (iii) attend a non-residential program for youth;

5 (iv) contribute to his own support at home or in a  
6 foster home.

7 (j) ~~(e)~~ Upon violation of a term or condition of probation,  
8 the court may enter a judgment on its original finding of guilt  
9 and proceed as otherwise provided.

10 (k) ~~(f)~~ Upon fulfillment of the terms and conditions of  
11 probation, the court shall discharge such person and dismiss  
12 the proceedings against him or her.

13 (l) ~~(g)~~ A disposition of probation is considered to be a  
14 conviction for the purposes of imposing the conditions of  
15 probation and for appeal, however, discharge and dismissal  
16 under this Section is not a conviction for purposes of  
17 disqualification or disabilities imposed by law upon  
18 conviction of a crime (including the additional penalty imposed  
19 for subsequent offenses under Section 4(c), 4(d), 5(c) or 5(d)  
20 of this Act).

21 (m) ~~(h)~~ Discharge and dismissal under this Section, Section  
22 410 of the Illinois Controlled Substances Act, or Section 70 of  
23 the Methamphetamine Control and Community Protection Act may  
24 occur only once with respect to any person.

25 (n) ~~(i)~~ If a person is convicted of an offense under this  
26 Act, the Illinois Controlled Substances Act, or the  
27 Methamphetamine Control and Community Protection Act within 5  
28 years subsequent to a discharge and dismissal under this  
29 Section, the discharge and dismissal under this Section shall  
30 be admissible in the sentencing proceeding for that conviction  
31 as a factor in aggravation.

32 (Source: P.A. 94-556, eff. 9-11-05.)

33 Section 10. The Illinois Controlled Substances Act is

1 amended by changing Section 410 as follows:

2 (720 ILCS 570/410) (from Ch. 56 1/2, par. 1410)

3 Sec. 410. (a) Whenever any person who has not previously  
4 been convicted of, or placed on probation or court supervision  
5 for any offense under this Act or any law of the United States  
6 or of any State relating to cannabis or controlled substances,  
7 is charged with possession of a controlled or counterfeit  
8 substance under subsection (c) of Section 402, the court may  
9 elect to divert such person to a county drug school program or  
10 other local diversion program, if it is available. Whenever a  
11 person has just once previously been convicted of, or placed on  
12 probation or court supervision for a violation of subsection  
13 (c) of Section 402 of this Act, the State's Attorney of the  
14 county in which the offense was committed may elect to divert  
15 such person to a county drug school program or other local  
16 diversion program, if it is available.

17 (b) Upon fulfillment of the terms and conditions of the  
18 drug school or drug diversion program, the State's Attorney may  
19 elect to dismiss the proceedings against such person.

20 (c) Upon a violation of any of the terms or conditions, or  
21 other unsuccessful completion of the drug school or drug  
22 diversion program, or if such a program is not available, the  
23 State's Attorney may proceed with prosecution as otherwise  
24 provided by law.

25 (d) ~~(a) Whenever any person who has not previously been~~  
26 ~~convicted of, or placed on probation or court supervision for~~  
27 ~~any offense under this Act or any law of the United States or~~  
28 ~~of any State relating to cannabis or controlled substances,~~  
29 pleads guilty to or is found guilty of possession of a  
30 controlled or counterfeit substance under subsection (c) of  
31 Section 402, the court, without entering a judgment and with  
32 the consent of such person, may sentence him or her to  
33 probation.

1       (e) Probation under this Section shall not be imposed for a  
2 third or subsequent plea or finding of guilt for possession of  
3 a controlled or counterfeit substance under subsection (c) of  
4 Section 402. This subsection (e) does not preclude a sentence  
5 of probation or other sentence available under law.

6       (f) ~~(b)~~ When a person is placed on probation, the court  
7 shall enter an order specifying a period of probation of 24  
8 months and shall defer further proceedings in the case until  
9 the conclusion of the period or until the filing of a petition  
10 alleging violation of a term or condition of probation.

11       (g) ~~(e)~~ The conditions of probation shall be that the  
12 person: (1) not violate any criminal statute of any  
13 jurisdiction; (2) submit to a drug assessment performed by a  
14 program designated by the State to perform such services for  
15 the Illinois courts, as defined in Section 1-10 of the  
16 Alcoholism and Other Drug Abuse and Dependency Act, and if  
17 needed, drug education treatment through county drug school, or  
18 drug treatment through a program center licensed by the  
19 Department of Human Services, or equivalent as available; (3)  
20 participate in a mental health screening at an approved  
21 service; ~~(2) refrain from possessing a firearm or other~~  
22 dangerous weapon; (4) ~~(3)~~ submit to periodic drug testing at a  
23 time and in a manner as ordered by the court, but no less than 3  
24 times during the period of the probation, with the cost of the  
25 testing to be paid by the probationer; (5) refrain from  
26 possessing a firearm or other dangerous weapon; and (6) ~~(4)~~  
27 perform no less than 30 hours of community service, provided  
28 community service is available in the jurisdiction and is  
29 funded and approved by the county board.

30       (h) A sentence of probation under this Section is  
31 immediately expungeable upon the successful completion of the  
32 probation.

33       (i) ~~(d)~~ The court may, in addition to other conditions,  
34 require that the person:

1           (1) make a report to and appear in person before or  
2 participate with the court or such courts, person, or  
3 social service agency as directed by the court in the order  
4 of probation;

5           (2) pay a fine and costs;

6           (3) work or pursue a course of study or vocational  
7 training;

8           (4) undergo medical or psychiatric treatment; or  
9 treatment or rehabilitation approved by the Illinois  
10 Department of Human Services;

11           (5) attend or reside in a facility established for the  
12 instruction or residence of defendants on probation;

13           (6) support his dependents;

14           (6-5) refrain from having in his or her body the  
15 presence of any illicit drug prohibited by the Cannabis  
16 Control Act, the Illinois Controlled Substances Act, or the  
17 Methamphetamine Control and Community Protection Act,  
18 unless prescribed by a physician, and submit samples of his  
19 or her blood or urine or both for tests to determine the  
20 presence of any illicit drug;

21           (7) and in addition, if a minor:

22               (i) reside with his parents or in a foster home;

23               (ii) attend school;

24               (iii) attend a non-residential program for youth;

25               (iv) contribute to his own support at home or in a  
26 foster home.

27           (j) ~~(e)~~ Upon violation of a term or condition of probation,  
28 the court may enter a judgment on its original finding of guilt  
29 and proceed as otherwise provided.

30           (k) ~~(f)~~ Upon fulfillment of the terms and conditions of  
31 probation, the court shall discharge the person and dismiss the  
32 proceedings against him.

33           (l) ~~(g)~~ A disposition of probation is considered to be a  
34 conviction for the purposes of imposing the conditions of

1 probation and for appeal, however, discharge and dismissal  
2 under this Section is not a conviction for purposes of this Act  
3 or for purposes of disqualifications or disabilities imposed by  
4 law upon conviction of a crime.

5 (m) ~~(h)~~ There may be only one discharge and dismissal under  
6 this Section, Section 10 of the Cannabis Control Act, or  
7 Section 70 of the Methamphetamine Control and Community  
8 Protection Act with respect to any person.

9 (n) ~~(i)~~ If a person is convicted of an offense under this  
10 Act, the Cannabis Control Act, or the Methamphetamine Control  
11 and Community Protection Act within 5 years subsequent to a  
12 discharge and dismissal under this Section, the discharge and  
13 dismissal under this Section shall be admissible in the  
14 sentencing proceeding for that conviction as evidence in  
15 aggravation.

16 (Source: P.A. 94-556, eff. 9-11-05.)

17 Section 15. The Methamphetamine Control and Community  
18 Protection Act is amended by changing Section 70 as follows:

19 (720 ILCS 646/70)

20 Sec. 70. Probation.

21 (a) Whenever any person who has not previously been  
22 convicted of, or placed on probation or court supervision for  
23 any offense under this Act or any law of the United States or  
24 of any State relating to cannabis or controlled substances, is  
25 charged with possession of less than 15 grams of  
26 methamphetamine under paragraph (1) or (2) of subsection (b) of  
27 Section 60 of this Act, the court may elect to divert such  
28 person to a county drug school program or other local diversion  
29 program, if it is available. Whenever a person has just once  
30 previously been convicted of, or placed on probation or court  
31 supervision for possession of less than 15 grams of  
32 methamphetamine under paragraph (1) or (2) of subsection (b) of

1 Section 60 of this Act, the State's Attorney of the county in  
2 which the offense was committed may elect to divert such person  
3 to a county drug school program or other local diversion  
4 program, if it is available.

5 (b) Upon fulfillment of the terms and conditions of the  
6 drug school or drug diversion program, the State's Attorney may  
7 elect to dismiss the proceedings against such person.

8 (c) Upon a violation of any of the terms or conditions, or  
9 other unsuccessful completion of the drug school or drug  
10 diversion program, or if such a program is not available, the  
11 State's Attorney may proceed with prosecution as otherwise  
12 provided by law.

13 (d) ~~(a)~~ Whenever any person who has not previously been  
14 convicted of, or placed on probation or court supervision for  
15 any offense under this Act, the Illinois Controlled Substances  
16 Act, the Cannabis Control Act, or any law of the United States  
17 or of any state relating to cannabis or controlled substances,  
18 pleads guilty to or is found guilty of possession of less than  
19 15 grams of methamphetamine under paragraph (1) or (2) of  
20 subsection (b) of Section 60 of this Act, the court, without  
21 entering a judgment and with the consent of the person, may  
22 sentence him or her to probation.

23 (e) Probation under this Section shall not be imposed for a  
24 third or subsequent plea or finding of guilt for possession of  
25 less than 15 grams of methamphetamine under paragraph (1) or  
26 (2) of subsection (b) of Section 60 of this Act. This  
27 subsection (e) does not preclude a sentence of probation or  
28 other sentence available under law.

29 (f) ~~(b)~~ When a person is placed on probation, the court  
30 shall enter an order specifying a period of probation of 24  
31 months and shall defer further proceedings in the case until  
32 the conclusion of the period or until the filing of a petition  
33 alleging violation of a term or condition of probation.

34 (g) ~~(c)~~ The conditions of probation shall be that the

1 person:

2 (1) not violate any criminal statute of any  
3 jurisdiction;

4 (1.1) submit to a drug assessment performed by a  
5 program designated by the State to perform such services  
6 for the Illinois courts, as defined in Section 1-10 of the  
7 Alcoholism and Other Drug Abuse and Dependency Act, and if  
8 needed, drug education treatment through county drug  
9 school, or drug treatment through a program center licensed  
10 by the Department of Human Services, or equivalent as  
11 available;

12 (1.2) participate in a mental health screening at an  
13 approved service;

14 (2) (blank) ~~refrain from possessing a firearm or other~~  
15 ~~dangerous weapon;~~

16 (3) submit to periodic drug testing at a time and in a  
17 manner as ordered by the court, but no less than 3 times  
18 during the period of the probation, with the cost of the  
19 testing to be paid by the probationer; ~~and~~

20 (3.1) refrain from possessing a firearm or other  
21 dangerous weapon; and

22 (4) perform no less than 30 hours of community service,  
23 if community service is available in the jurisdiction and  
24 is funded and approved by the county board.

25 (h) A sentence of probation under this Section is  
26 immediately expungeable upon the successful completion of the  
27 probation.

28 (i) ~~(d)~~ The court may, in addition to other conditions,  
29 require that the person take one or more of the following  
30 actions:

31 (1) make a report to and appear in person before or  
32 participate with the court or such courts, person, or  
33 social service agency as directed by the court in the order  
34 of probation;

- 1           (2) pay a fine and costs;
- 2           (3) work or pursue a course of study or vocational  
3 training;
- 4           (4) undergo medical or psychiatric treatment; or  
5 treatment or rehabilitation approved by the Illinois  
6 Department of Human Services;
- 7           (5) attend or reside in a facility established for the  
8 instruction or residence of defendants on probation;
- 9           (6) support his or her dependents;
- 10          (7) refrain from having in his or her body the presence  
11 of any illicit drug prohibited by this Act, the Cannabis  
12 Control Act, or the Illinois Controlled Substances Act,  
13 unless prescribed by a physician, and submit samples of his  
14 or her blood or urine or both for tests to determine the  
15 presence of any illicit drug; or
- 16          (8) if a minor:
- 17           (i) reside with his or her parents or in a foster  
18 home;
- 19           (ii) attend school;
- 20           (iii) attend a non-residential program for youth;
- 21          or
- 22           (iv) contribute to his or her own support at home  
23 or in a foster home.
- 24          (j) ~~(e)~~ Upon violation of a term or condition of probation,  
25 the court may enter a judgment on its original finding of guilt  
26 and proceed as otherwise provided.
- 27          (k) ~~(f)~~ Upon fulfillment of the terms and conditions of  
28 probation, the court shall discharge the person and dismiss the  
29 proceedings against the person.
- 30          (l) ~~(g)~~ A disposition of probation is considered to be a  
31 conviction for the purposes of imposing the conditions of  
32 probation and for appeal, however, discharge and dismissal  
33 under this Section is not a conviction for purposes of this Act  
34 or for purposes of disqualifications or disabilities imposed by

1 law upon conviction of a crime.

2 (m) ~~(h)~~ There may be only one discharge and dismissal under  
3 this Section, Section 410 of the Illinois Controlled Substances  
4 Act, or Section 10 of the Cannabis Control Act with respect to  
5 any person.

6 (n) ~~(i)~~ If a person is convicted of an offense under this  
7 Act, the Cannabis Control Act, or the Illinois Controlled  
8 Substances Act within 5 years subsequent to a discharge and  
9 dismissal under this Section, the discharge and dismissal under  
10 this Section are admissible in the sentencing proceeding for  
11 that conviction as evidence in aggravation.

12 (Source: P.A. 94-556, eff. 9-11-05.)".